UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
LEIVA, FRANK M

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *13 December 2007*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *58-70,74-76 and 78* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *58-70, 74-76 and 78* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *12/13/2007*.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Acknowledgements

1.   The examiner acknowledges newly canceled claims 71-73 and 77 and new claim 78
in the applicant's submission filed 13 December 2007, remaining pending claims 58-70,
74-76 and 78.

Response to Arguments

2.   Applicant's arguments filed 13 December 2007 have been fully considered but they
are not persuasive. Reasons as follows;

3.   Regarding the argument on page 7 of applicant's remarks in regards to limitations
(a and b), "*In the Office Action, the Examiner has asserted that transferring or
"downloading" new software to a gaming apparatus effectively teaches these claimed
features (Office Action, page 3, citing Col. 1, lines 16-29 and 33-41 and Col. 4, lines 8-21
of Wells et al.*)", Column 4:49-65 is also part of claim 58's rejection that includes the entire
network description including an operating system with a kernel and a dynamic link,
including the EEPROM for non-volatile memory and the programming shared objects. The
examiner points to the use of shared objects from the kernel as being downloaded from
the kernel to all other terminals that wish to use it.

4.   Regarding the argument on page 8 of applicant's remarks in regards to item (c), the
examiner points again that (col. 4:49-65) is included in the passage and that (col. 4:1-7)
are their to point to the gaming terminal controller board as an application program
interface.

5.   As these were the only arguments presented to the examiner and found not
persuasive, the rejections to claims 58-70 and 74-75 are deemed proper and will stand

and be restated in this action for the record. Claims 76 and 78 will be examined on the merits of the new amendments.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   **Claims 58-70, 74-76 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wells et al (US 6,805,634 B1), herein after Wells.**

8.   **Regarding claim 58;** Wells discloses:

A computerized wagering game apparatus, comprising; a computerized game controller comprising a processor with a memory and an operating system stored in said memory, the controller further comprising a game state storage, a nonvolatile storage, the computerized game controller being operable to control a computerized wagering game, (4:49-65).

An operating system comprising an operating system kernel and a system handler application, the operating system kernel and system handler application operable to dynamically link with a plurality of gaming program shared objects and device handlers for the computerized wagering game at run time when the computerized wagering game is executed in a manner that allows the plurality of gaming program objects to call a set of common functions effectively provided by the system handler application when the system handler application is executed and load said gaming program shared objects and device

handlers, (1:33-41), discloses to add new features, implementing new games… new software is transferred or "downloaded", and (4:8-21), more specific details.

The system handler application comprising an Application Program Interface comprising functions callable from the gaming program shared objects, the Application Program Interface comprising a plurality of gaming functions callable by and used by the plurality of the gaming program shared objects, (4:1-7).

The system handler application operable to; initiate execution of a computerized wagering game based on game data variables stored in the nonvolatile storage; write game data variables to at least one of the game state storage and nonvolatile storage when the computerized wagering game is executed; and load at least one of the plurality of the gaming program shared objects in response to a change in the stored game data variables by at least another one of the plurality of the gaming program shared objects, (1:16-29).

The game state storage including a look-up table for the data variables stored in the nonvolatile storage, (2:1-20), wherein it is well known to have look-up tables or menus in machines from well before the IGT GameKing product line circa 1996, for the purpose of selecting hardware and paytable configurations.

9.   **Regarding claim 59;** Wells discloses wherein the system handler application further comprises an event handler, (fig. 5).

10.   **Regarding claim 60;** Wells discloses wherein the system handler application comprises software having the ability when executed to:
unload a previous gaming program shared object or device handler if a previous object or device handler has been loaded; load a new gaming program shared object or device handler; and execute the new gaming program shared object or device handler, (fig. 2 & description).

11.   **Regarding claim 61;** Wells discloses wherein data variables modified by the gaming program shared objects are stored by the system handler application in the

nonvolatile storage and a game state storage, and the system handler application functions to verify that the operating system or code for a shared object has not changed, (8:36-67), wherein the information is double checked by the system to be compatible and approved for the jurisdiction, and that if it is determined that the current version is correct, the download can be skipped.

12.   **Regarding claim 62;** Wells discloses wherein the game state storage provides a variable name index to associated variable data locations within the nonvolatile storage, (8:36-67), program Ids and CRC verification numbers.

13.   **Regarding claim 63;** Wells discloses wherein changing a data variable in nonvolatile storage causes execution of a corresponding callback function in one of the gaming program shared objects of the system handler application. It is well known to create a reset subroutine to load all new data variables such as paytables and Jackpot Level changes into the proper register locations and restart game functions with new values.

14.   **Regarding claim 64;** Wells discloses wherein the computerized game controller comprises an IBM PC-compatible computer. It is well known in the industry to use Intel processors in the machines MPU boards as part of modern gaming architecture and to improve communication with standard peripherals, Intel chip have been in use on IBM compatible machines since their conception.

15.   **Regarding claim 65;** Wells discloses wherein the operating system kernel is a Linux operating system kernel. It is well known to use Linux operating system; the earliest this examiner recalls is the old Yahtzee and Battleship games by Mikohn/Sigma.

16.   **Regarding claim 66;** Wells discloses wherein the Linux operating system kernel has at least one selected device handler disabled, whereas it is well known to have a list of

device handlers or "drivers" for the same product and to disable all non-available devices during installation.

17.   **Regarding claim 67;** Wells discloses wherein the at least one selected device handler that is disabled is selected from the group consisting of a keyboard handler, an I/O port handler, a network interface handler, a storage device controller handler, and a I/O device handler, as stated above for claim 66, it is well known to have a selection of possible I/O devices such as touchscreen drivers, bill validator drivers and printer drivers, and to disable all non-used equipment so that the operating system is not looking for them.

18.   **Regarding claim 68;** Wells discloses wherein the system handler application and the operating system kernel work in communication to hash system handler application code and operating system kernel code, it is well known that the virtue of a network system is to allow communication across all systems if necessary.

19.   **Regarding claim 69;** Wells discloses wherein the operating system is controlled by a general-purpose computer and the nonvolatile storage stores program variables, such that loss of power does not result in loss of the state of the computerized wagering game system, and the system handler application loads a first shared object and the first shared object calls up a gaming function from within an Application Program Interface, It is well known to use Intel processors which are general purpose computer processors in gaming machines, and to maintain EEPROM and battery backup systems to save game data in the event of power failure, a common occurrence in casino environments.

20.   **Regarding claim 70;** Wells discloses wherein the system application handler loads and executes a single shared object at any one time, and wherein the system application handler shares data with at least one other shared object upon execution of the at least one other shared object, (fig. 2 & 4:8-21), whereas in fig. 2 it establishes that the system is in communication with one game at a time, col. 4:8-21 explains that the system is

programmed to continue to the next game in the group that is in idle for a specific length of time.

21.   **Regarding claim 74;** Wells discloses wherein the wagering game comprises a plurality of segments each comprising a gaming program shared object, wherein the system handler is operable to dynamically change the wagering game from one of the plurality of segments to another of the plurality of segments in response to the change in the stored game data variables. It is well known to create a reset subroutine to load all new data variables such as paytables and Jackpot Levels and number of reels and paylines changes into the proper register locations and restart game functions with new values; this of course changes the game segments.

22.   **Regarding claim 75;** Wells discloses wherein the system handler is operable to dynamically change the segment of the wagering game in response to a change in at least one of the device handlers, (8:36-67), wherein the system automatically checks and verifies authentication and will replace the device handlers if necessary.

23.   **Regarding claims 76 and 78;** Wells discloses a computer-implemented method with computer readable medium including computer program code of managing data for a computerized wagering game, comprising: executing an operating system that includes an operating system kernel and a system handler application; initiating execution of the computerized wagering game; changing one or more game data variables stored in memory as a result of initiating the execution of the computerized wagering game, (fig. 3, and col. 4:49-65, 5:4-27 and 6:14-21);

loading a plurality of gaming program shared objects in response to the change to the one or more game data variables stored in the memory, wherein the plurality of gaming program shared objects can be used to call a set of common functions that can be used for execution of the computerized wagering game, (col. 5:4-27, 45-57);

linking the system handler application with the plurality of gaming program objects for the computerized wagering game at run time when the execution of the computerized

wagering game is initiated and the plurality of gaming program objects are loaded, thereby
dynamically linking the system handler application with the plurality of gaming program
shared objects for the computerized wagering game at run time when the execution of the
computerized wagering game is initiated in a manner that allows the plurality of gaming
program objects to call the set of common functions effectively provided by the system
handler application when the system handler application is executed, (col. 4:1-21), where
the system being linked to the gaming terminal manages the transfer of the shared objects
independently with each machine and during the wagering game is running it waits for a
signal call to initiate transfer.

24.   **Examiner's Note:** Examiner has cited paragraphs and figures in the references as
applied to the claims above for the convenience of the applicant. Although the specified
citations are representative of the teachings in the art and are applied to the specific
limitations within the individual claim, other passages and figures may apply as well. It is
respectfully requested from the applicant, in preparing the responses, to fully consider the
references in entirety as potentially teaching all or part of the claimed invention, as well as
the context of the passage as taught by the prior art or disclosed by the examiner.

Double Patenting

25.   The nonstatutory double patenting rejection is based on a judicially created doctrine
grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified
or improper timewise extension of the "right to exclude" granted by a patent and to prevent
possible harassment by multiple assignees. A nonstatutory obviousness-type double
patenting rejection is appropriate where the conflicting claims are not identical, but at least
one examined application claim is not patentably distinct from the reference claim(s)
because the examined application claim is either anticipated by, or would have been
obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d
1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993);

In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

26.   Claims 58-71, 74-76 and 78 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over new claims 48-52 and 54-66 of copending Application No. 10/827042 submitted in an amendment received on 14 May 2007. Although the conflicting claims are not identical, they are not patentably distinct from each other because when claims in one application are so close in content to claims in another application that they both cover the same subject matter, despite a slight different in wording, it is proper to apply obvious-type double patenting. The claims of co-pending Application No. 10/827042 recite "...a universal operating system stored in memory of a computerized controller comprising..." and the claims of the instant application recite "...a computerized wagering game controller comprising a processor with a memory and an operating system stored in said memory..." which are considered to be equivalent, despite the slight difference in wording. Thus, claims 58-70, 74-76 and 78 of the instant application are considered to be similar, if not identical, to claims 48-52 and 54-66 of co-pending Application No. 10/827042.

27.   This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

28.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

29.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/

Supervisory Patent Examiner, Art Unit 3714

FML 07/02/2008